

DEPARTMENT OF FOOD AND AGRICULTURE  
PROPOSED CHANGES IN THE REGULATIONS

Title 3, California Code of Regulations

Section 3589, Subsection (a)

Japanese Beetle Eradication Area

INITIAL STATEMENT OF REASONS/

POLICY STATEMENT OVERVIEW

Description of Public Problem, Administration Requirement, or Other Condition or Circumstance  
the Regulation is Intended to Address

This regulation is intended to address the obligation of the Department of Food and Agriculture to protect the agricultural industry from the movement and spread of injurious plant pests within California.

Specific Purpose and Factual Basis

The specific purpose of Section 3589 is to provide authority to the State to eradicate infestations of *Popillia japonica* from within the declared eradication area by the established means and methods.

The factual basis for the determination by the Department that the amendment of this regulation is necessary is as follows:

Two male adult *Popillia japonica* (Japanese beetles), were recovered from a trap on June 23, 2006, at a residence located in Vista, California. The number of adult Japanese beetles detected is indicative of a possible incipient infestation existing in this area.

An emergency eradication response was necessary to ensure the Japanese beetle does not continue to multiply and/or spread to other uninfested areas of the State. Adult Japanese beetles may continue emergence and although a strong flyer, traveling up to five miles to find suitable host material, will stay in a more local area when there is adequate host material. The real threat of long distance spread includes the human assisted movement of infested plants or soil.

Japanese beetle is one of the most destructive insect pests in the United States. The adult beetle is a gregarious and general feeder that causes serious damage to fruits, truck and garden crops, ornamental herbaceous garden plants, ornamental shrubs, trees and vines, and many other urban plants. The larvae feed extensively on the root systems of plants, particularly in grassy (sod/turf) areas such as parks, golf courses, etc.

The United States Department of Agriculture still considers this pest serious enough to maintain a Japanese Beetle Program to prevent the dissemination of adult beetles through the movement of airplanes and air cargo from infested states during the Japanese beetle flight season. Several states within the United States maintain quarantines in an effort to prevent the introduction of this serious pest through the movement of nursery stock or other carriers. The State of California has a Japanese Beetle Exterior Quarantine, Section 3280, Title 3, California Code of Regulations to help mitigate the introduction of this beetle into California. The last time the Department adopted a Japanese Beetle Interior Quarantine (Section 3420) was in 1983 and regulated the Orangevale area of Sacramento County. This regulation was subsequently repealed after the beetle was successfully eradicated.

The Japanese beetle has the capability of causing significant irreparable harm to California's agricultural industry and environment. While the Department's compliance with the Administrative Procedure Act and the California Environmental Quality Act (CEQA) are separate actions, they can be interrelated. Although the amendment of specific regulatory authority can be the beginning of a project and therefore covered by CEQA, this is a ministerial action for an emergency and an action also for the protection of natural resources and the environment by a regulatory agency and is therefore exempt from the requirements of the CEQA statutes, under PRC Section 21080, and under Sections 15268, 15269, 15307 and 15308 of the CEQA Guidelines.

The Department also determined that to ensure it conducts an eradication project with the greatest chances of success, eradication activities needed to begin as soon as possible.

The proposed amendment of Section 3589(a) established San Diego County as the eradication area for Japanese beetle. The entire county was proposed as an eradication area since future detection surveys may result in finds of additional small Japanese beetle infestations outside the

current affected area. To enable rapid eradication responses to newly discovered small infestations without frequent amendment of the regulation, the entire county was established as an eradication area.

The effect of the amendment of this regulation was to implement the State's authority to perform specific survey, control and eradication activities against Japanese beetle in San Diego County. Any eradication or control actions undertaken by the Department will be in cooperation and coordination with federal, city, county, and other state agencies as deemed necessary by the Department to ensure no long-term significant public health or environmental impacts. To prevent the spread of the Japanese beetle to non-infested areas in order to protect California's agricultural industry and environment, it was necessary to begin eradication activities against the Japanese beetle immediately. Therefore, it was necessary to amend this regulation as an emergency action.

#### Estimated Cost of Savings to Public Agencies or Affected Private Individuals or Entities

The Department of Food and Agriculture has determined that Section 3589(a) does not impose a mandate on local agencies or school districts and no reimbursement is required under Section 17561 of the Government Code.

The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the amendment of 3589(a).

The cost impact of the changes in the regulations on private persons and businesses are expected to be insignificant.

The Department has determined that the proposed actions will not have a significant adverse economic impact on housing costs or California business, including the ability of California businesses to compete with businesses in other states. The Department's determination that the action will not have a significant statewide adverse economic impact on business was based on the following:

The emergency amendment of Section 3589(a) provides authority for the Department to conduct eradication activities against Japanese beetle within San Diego County and there are no known private sector cost impacts.

### Assessment

The Department has made an assessment that the repeal of the regulation would not 1) create or eliminate jobs within California; 2) create new business or eliminate existing businesses with California; or 3) affect the expansion of businesses currently doing business with California.

### Alternatives Considered

The Department of Food and Agriculture must determine that no alternative considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

### Information Relied Upon

The Department relied upon the following studies, reports, and documents in the proposed adoption and subsequent amendment of Section 3589:

Section 3280, Japanese Beetle Exterior Quarantine, Title 3, California Code of Regulations.

“Managing Adult Japanese Beetles,” L. H. Townsend, Department of Entomology, University of Kentucky, printed on June 28, 2006.

Ohio State University Extension Fact Sheet, “Japanese Beetle, HYG-2504-91,” David J. Shetlar, Department of Entomology, Ohio State University, printed on June 28, 2006.

“Pest and Damage Record #1326551,” dated June 23, 2006, California Department of Food and Agriculture, Plant Health and Pest Prevention Services.

“Action Plan for Japanese Beetle, *Popillia japonica* (Newman),” May 2000, California Department of Food and Agriculture, Plant Health and Pest Prevention Services (nine pages).

“Japanese Beetle Program Manual for Airports,” December 2004, United States Department of Agriculture, Marketing and Regulatory Programs, Animal and Plant Health Inspection Service, Plant Protection and Quarantine.